

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

Kay Diane Ansley, Catherine “Cathy” McGaughey, Carol Ann Person, Thomas Roger Person, Kelley Penn, and Sonja Goodman,

Plaintiffs,

vs.

State of North Carolina,

Defendant,

Case No.: 1:15-cv-274

and

Phil Berger, President Pro Tempore of the North Carolina Senate, and Tim Moore, Speaker of the North Carolina House of Representatives, on behalf of the North Carolina General Assembly,

Proposed Defendant-
Intervenors.

PROPOSED DEFENDANT-INTERVENORS’ MOTION TO DISMISS

Proposed Defendant-Intervenors Phil Berger, President Pro Tempore of the North Carolina Senate, and Tim Moore, Speaker of the North Carolina House of Representatives, on behalf of the North Carolina General Assembly, respectfully move this Court for an order dismissing Plaintiffs’ Complaint (ECF No. 1) pursuant to Fed. R. Civ. P. 12(b)(1) and Fed. R. Civ. P. 12(b)(6) because the Complaint is barred by the Eleventh Amendment to the United States Constitution, Plaintiffs lack standing to raise (and thus this Court lacks subject-matter jurisdiction to review) the claims asserted, and the Complaint fails to state a claim upon which relief can be granted. Proposed Intervenors rely on the factual and legal grounds set forth in the accompanying brief.

As required by Fed. R. Civ. P. 24(c), Proposed Intervenorors have electronically served this Motion on the parties through the Court's CM/ECF filing system.

Date: February 4, 2016

Respectfully submitted,

/s/ Robert D. Potter, Jr.

Robert D. Potter, Jr.
Attorney at Law
2820 Selwyn Ave., #840
Charlotte, NC 28209
(704) 552-7742
rdpotter@rdpotterlaw.com

John C. Eastman*
CENTER FOR CONSTITUTIONAL JURISPRUDENCE
c/o Chapman University Fowler School of Law
One University Dr.
Orange, CA 92866
(877) 855-3330
(714) 844-4817 Fax
jeastman@chapman.edu

James A. Campbell*
Kenneth J. Connelly*
Douglas G. Wardlow*
Jonathan Caleb Dalton*
ALLIANCE DEFENDING FREEDOM
15100 North 90th Street
Scottsdale, AZ 85260
(480) 444-0020
(480) 444-0028 Fax
jcampbell@ADFlegal.org
kconnelly@ADFlegal.org
dwardlow@ADFlegal.org
cdalton@ADFlegal.org

Attorneys for Proposed Defendant-Intervenorors

**Notice of Appearance to be filed*

CERTIFICATE OF SERVICE

I hereby certify that on February 4, 2016, I electronically filed the foregoing paper with the Clerk of Court by using the CM/ECF system.

All participants in the case are registered CM/ECF users and will be served by the CM/ECF system.

Date: February 4, 2016

/s/ Robert D. Potter, Jr.
Robert D. Potter, Jr.